

**PROPOSED AGREEMENT BETWEEN**  
**THE UNITED STATES DEPARTMENT OF THE INTERIOR**  
**AND WESTLAND WATER DISTRICT FOR LAND RETIREMENT**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1998, by the United States Department of the Interior (United States) and Westland Water District (Westland) to address the disposition of land and the associated Central Valley Project (C.P.) water upon the retirement of such land from irrigated agricultural production in Westland.

WHEREAS, the United States is currently making water available to Westland for delivery to water users in Westland pursuant to a water service contract dated June 3, 1963, (1963 Contract) and the Judgment in the consolidated lawsuits entitled *Bar cellos and Wolfesen, Inc., v. Westland Water District* and *Westland Water District v. United States*, Civ. Nos. P-79-106 OWW and F-81-245 (E.D. Ca.) Dated December 30, 1986 (Judgment); and

WHEREAS, the Judgment provides that lands within Area I of Westland shall have the first and prior right to timely apply for and purchase from Westland the entire quantity of water to which Westland is entitled under the 1963 Contract and any such water not purchased by water users in Area I shall be allocated ratably among water users in Area II of Westland who timely apply for and purchase such water; and

WHEREAS, Article 2 of the 1963 Contract and Section 3404(c) of the Central Valley Project Improvement Act of October 30, 1992, Pub. L. No. 102-575 (the CVPIA) grant Westland the right to renew the 1963 Contract for a term of 25 years, and Paragraph 12.1.1. of the Judgment grants Westland an entitlement, subject to all requirements of the Judgment and applicable law, to a long-term water service contract with the United States for a term expiring no sooner than December 31, 2007, for the firm annual delivery of the 250,000 acre-feet of C.P. water described in Paragraph 5 of the Judgment; and

WHEREAS, subject to all the requirements of law, including the applicable provisions of the National Environmental Policy Act, Federal reclamation law and the Administrative Procedure Act, the United States and Westland intend to enter into a contract or contracts under mutually agreed upon terms and conditions, for a period of not less than 25 years, obligating the United States to furnish to Westland an aggregate of 1,150,000 acre-feet of Project water per year; and

WHEREAS, Westland and the United States have a mutual desire to continue to provide C.P. water to the water users in Westland for productive agricultural uses throughout and beyond the remaining term of the 1963 Contract and the Judgment; and

WHEREAS, Section 3408(h) of the Central Valley Project Improvement Act (CVPIA) authorizes the Secretary of the Interior to purchase agricultural land to which C.P. water is allocated if in the Secretary's opinion such lands are no longer suitable for sustained agricultural production because of permanent damage resulting from severe drainage problems or if such purchase would improve the quality of the districts' agricultural wastewater; and

WHEREAS, the United States may identify lands in Westland which it may decide to acquire pursuant to the authority granted by Section 3408(h) of the CVPIA (hereinafter referred to as retired lands); and

WHEREAS, Westland and the United States have agreed that a demand exists for supplemental water supplies for lands in Westland which do not meet the criteria for permanent land retirement set out in Section 3408(h) of the CVPIA; and

WHEREAS, this Agreement is intended by Westland and the United States to settle a potential dispute between Westland and the United States concerning the right of the United States to transfer C.P. water appurtenant to the retired lands out of Westland after such retirement and prior to the expiration of the Judgment for the land to be retired under this Agreement;

NOW, THEREFORE, The United States and Westland agree to the following:

1. Land Retirement

(a) The United States and Westland shall cooperate with one another on a project for the retirement of up to 15,000 acres of lands within Westland. All lands retired by the United States within Westland' boundaries, up to 15,000 acres, shall be retired pursuant to this Agreement; provided, however, that the total number of acres to be retired pursuant to this Agreement may be modified upon written agreement of the parties. This Agreement shall remain in effect for three (3) years from the date entered above or until 15,000 acres have been retired under this Agreement, whichever occurs first.

(b) The United States shall advise Westland prior to each purchase of all retired land in Westland up to 15,000 acres.

(c) The purchase price to be paid for such retired lands shall be its fair market value. The United States shall contribute towards the purchase price for such lands the fair market value of the land unrelated to C.P. irrigation water deliveries plus the fair market value of improvements thereon. To settle the potential dispute described in the last recital above, Westland shall contribute the difference between the total purchase price for retired lands and the amount contributed by the United States, up to \$1,150 per acre. In the event the difference between the total purchase price and the amount contributed by the United States exceeds \$1,150 per acre, the United States and Westland shall negotiate a different division of the total purchase price, and if any agreement is not reached, the land will not be acquired pursuant to this Agreement.

(d) Westland shall retain the right to receive C.P. water associated with the retired lands purchased by the United States in Westland, and so long as the retired lands remain within Westland' boundaries, Westland shall annually allocate to said lands the proportionate share of Westland' C.P. water supply to which said lands would be entitled in the absence of their acquisition. After said allocation has been made, the water shall be transferred to Westland' supplemental water supply for allocation to other lands by subscription under terms established by Westland; provided, however, such water shall not be used on lands that are within the area cross-hatched on the map attached hereto as Exhibit A. Provided further, such water shall not be used to convert native lands to agricultural production. Westland' right to receive and allocate such C.P. water from its supplemental water supply shall extend beyond the termination of this Agreement, as provided for in paragraph 1(a).

The boundaries of the area cross-hatched on Exhibit A may be adjusted, or specific exceptions within the area may be made, upon a determination by Westland drainage engineers with the concurrence of the Bureau of Reclamation drainage engineers that such adjustment or exception will not cause, contribute to, or exacerbate existing or future drainage problems. Any adjustment or exception to the area depicted on Exhibit A will be based on physical factors affecting the current or future need for drainage service including Natural Resource Conservation Service soil associations, trends in groundwater levels, hydraulic conductivities, geohydrology and shallow groundwater quality. At a minimum, modifications or exceptions to the depicted area shall meet the following criteria: (i) NRCS soil classification moderate to well drained, (ii) shallow groundwater levels greater than ten feet; (ii) water tables stable or declining within a one mile radius for at least the previous ten years; and (iv) shallow groundwater salinity equal to or less than 12 dS/m and selenium equal to or less than 2 parts per billion.

(e) Notwithstanding anything to the contrary in paragraph 1(d), so long as the retired lands remain within Westland' boundaries, the United States may apply for an allocation from Westland' supplemental water supply for use on the retired lands, and such

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**Appendix 3. Proposed Agreement between United States and  
Westland Water District**

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retired lands shall be entitled to a proportionate allocation of Westland' supplemental supply for upland habitat management purposes.

(f) Title to the retired lands shall be vested in the United States or its designee.

**2. Retired Lands' Repayment Obligation**

For those lands retired pursuant to this Agreement, either (1) Westland' repayment obligation to the United States for the portion of the cost of the distribution system and drainage collector system to be repaid by the owner of those lands shall be canceled by the United States and the debt schedule shall be reamortized, or (2) the United States shall pay to Westland the present value of the projected assessment income stream from those lands.

**3. No Supplemental or Additional Benefit**

Neither this Agreement nor any action taken by the parties hereto in carrying out its provisions is deemed by the parties hereto to subject Westland to the discretionary provisions of the Reclamation Reform Act of 1982 because neither constitutes a new water service contract or repayment contract between the United States and Westland or an amendment of the existing water service contract or the existing repayment contract between the United States and Westland.

**4. Anti-deficiency Language**

The performance of any obligation by the United States which requires the expenditure or advance of any money shall be contingent upon the appropriation of funds by Congress and the apportionment of such funds by the Office of Management and Budget. Absence of appropriation or apportionment of funds shall not relieve Westland from any obligation under this Agreement. No breach of the Agreement shall result and no liability shall accrue to the United States in case funds are not appropriated or apportioned.

United States Department of the Interior  
Mid-Pacific Region  
Bureau of Reclamation

Westland Water District

By \_\_\_\_\_  
Regional Director

By \_\_\_\_\_  
General Manager